

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION TWENTY-FIVE

Indianapolis, IN

SEARS ROEBUCK & CO.,  
Employer

and

Case 25-RC-10031

UNITED STEELWORKERS OF AMERICA,  
AFL-CIO, CLC,  
Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on May 2 and 3, 2001, before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time lead service technicians, shop service technicians, site service technicians, technician helpers, truck stock specialists, shippers and receivers, parts pros, sales employees, routing specialists, routing clericals, customer relations employees, audit clericals, MIC clerks, parts audit clerks, lead support employees, and other support employees employed by the Employer within its Indianapolis Product Service District; BUT EXCLUDING all office clerical employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.

The unit found appropriate herein consists of approximately 229 employees for whom no history of collective bargaining exists.

## I. STATEMENT OF FACTS

Sears Roebuck & Co. (hereinafter referred to as "the Employer") is a corporation which operates retail stores and repair service centers throughout the nation. Sears Product Services is a division of the Employer which provides maintenance and repair services on a variety of home-related products, and sells parts to customers. The repair and maintenance services are provided both in customers' homes/businesses and at shops maintained at the Employer's various facilities. The Employer's Product Services Division is organized into 84 districts nationally. One of these districts is the Indianapolis Product Services Division which includes a central facility located in Indianapolis, Indiana along with branch facilities located in Terre Haute, Lafayette, Kokomo, Fort Wayne, Muncie, and Castleton, Indiana.

The Petitioner seeks an election within a unit comprised of shop and "site" service technicians who perform maintenance and repair services, along with a technician helper and a truck stock specialist, both of whom are employed at the Indianapolis facility. In dispute are the appropriate unit placement of approximately 75 employees who occupy the positions of shipper/receiver, parts pro, sales employee, routing specialist, routing clerical, customer relations employee, audit clerical, MIC clerk, parts audit clerk, lead support employee, or support employee. The Employer contends that employees in these positions provide support services to the technicians and share a sufficient community of interest with them to require their joinder within one unit. It is the position of the Petitioner, however, that employees who occupy these positions do not share a community of interest with the technicians, and therefore should not be included within the same unit.

The highest ranking manager at the Employer's Indianapolis Product Services Division is the district service manager. The district service manager is based in the Indianapolis, Indiana facility (hereinafter referred to as "the central facility"). Under the district service manager is the district support manager who is also based at the central facility. The district support manager supervises all of the support employees in the district, including, the positions in dispute in the instant case. There are also three technician managers at the central facility. The technician

managers supervise both shop and site technicians who work out of the central facility as well as the Castleton, Indiana branch<sup>1</sup>. The remaining five branches each have a branch manager who supervises both the technicians and the support employees at their respective branches. The central facility also has a parts manager who supervises the parts employees at the central facility, and a routing manager who supervises the routing employees at the central facility.

The employees in the Indianapolis Product Service District are divided into two groups, technicians and support employees. Support employees at the central facility are further divided based upon their particular specialty. Technicians at all of the branches, including the central facility, are divided into two groups: site technicians and shop technicians. Site technicians actually go to customers' homes/businesses and perform repair work on a variety of items. Shop technicians remain at their respective facilities and perform work on items brought into the facility by customers. Some technicians, though not all, specialize in the types of items they repair. For example the Employer maintains an electronic repair center at the Castleton branch. There are approximately 20 shop technicians who work in the electronic repair center and they work exclusively on electronic items such as TV's, VCR's, camcorders, and DVD's. If a customer brings such an item for repair at any of the branches, the item is shuttled to the Castleton branch and repaired and is then shuttled back to the original branch for the customer to pick up. From the record it appears that with the exception of the summer months when some site technicians are brought into the branch facilities to repair lawn and garden equipment, no shop technicians work at the facilities during the rest of the year. Rather, the technicians who work at the branches perform site technician work the rest of the year. Some site technicians also specialize in the equipment they repair, with some specializing in heating and air conditioning systems and others specializing in home appliances.

Technician helpers work with the shop technicians and assist in repairing equipment. Technician helpers essentially prepare the items for the shop technicians to repair. Technician helpers drain oil and gas from equipment; obtain required parts; carry equipment; and perform some very minor repairs. The truck stock specialist works at the central facility and works with the site technicians, technician managers, and branch managers in determining the parts which site technicians should keep stocked on their trucks. These are parts that site technicians routinely carry in their trucks and are different from parts that are specially ordered for specific jobs. The truck parts specialist monitors the parts site technicians are using and works with the merchandise inventory control clerk and the parts pro to obtain parts to replace those used by the site technicians. The truck parts specialist also works with the technicians regarding any problems that arise with truck stock inventory.

The Employer currently has four routing specialists in the Indianapolis Product Service District. All four of the routing specialists work at the central facility. The function of the routing specialist is to take the requests for service which are phoned in by customers and then create work schedules for all of the site technicians, including those at the branch facilities. The routing specialists attempt to create schedules that maximizes the efficiency of the technicians.

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<sup>1</sup> The Castleton branch has a branch manager as well, but he only supervises the support employees while the technician managers supervise the technicians at that branch.

In order to do this, the routing specialists attempt to create a schedule that minimizes the amount of downtime, such as driving time, for the technicians. The routing specialists are further divided into two groups: same-day specialists and next-day specialists. The next-day routing specialist takes a customer's order and examines it for special requests such as the time of day the customer would prefer the call, or a request for a specific technician. The next-day routing specialist then creates the following day's schedule for each of the technicians. In order to do this the routing specialist uses the technician schedules which are entered into the computer by the technician and branch managers. The schedule created by the routing specialist is constantly updated throughout the day as new calls are added. The completed schedule is entered into the computer and is downloaded by the technician the following day. Each site technician carries an HHT, which is a hand-held computer used to download work schedules each day and to communicate with the routing specialists and other support specialists.

In addition to the next-day routing specialists there are also same-day routing specialists who adjust the technician's schedules for the current day. Same-day routing specialists adjust the technicians' schedules to accommodate factors such as emergency repair requests, so that these requests can be handled in an expedited fashion. The schedule adjustments are transmitted to the technicians through their HHTs. In addition to adjustments caused by new customer calls, same-day routing specialists also make schedule adjustments based upon technician feedback. Technicians notify routing when a customer is not home at the time of a scheduled service call or if a particular job is going to take longer than expected. The same-day routing specialist then uses the information to adjust that technician's schedule as well as the schedules of other technicians in order to assure that the technicians are covering the maximum number of calls in a day. Same-day routing specialists are also notified if a scheduled technician is going to be absent and adjust the schedules accordingly. Only the routing specialists can add or remove a call from the technicians schedule. In addition, if a technician is going to need overtime in order to complete a job, routing is notified, and before the overtime is approved, the routing specialists first determine if another technician can make the call without requiring overtime.

The routing specialists are assisted in their duties by two routing clericals. The routing clericals also work at the central facility. The primary function of the routing clericals is to relay messages from the technicians throughout the day to the routing specialists so that the routing specialists can update the technicians' schedules to maximize efficiency. Routing clericals spend approximately 85% of their day communicating with the technicians through their HHTs. If a technician is not able to perform a scheduled call, he or she notifies routing via his/her HHT, and the routing clerical calls the customer to reschedule the call. The routing clericals also enter into the computer each of the technicians' vacation schedules and other scheduled days off so that the routing specialists can use this information in creating call schedules. The routing clericals also create a list of absent technicians and forward this list to the Employer's Human Resources Department.

In addition to the truck stock specialist described above, the Employer also has several other categories of parts employees who work at the central facility. These are the MIC clerk,

parts pros, and parts employees. The MIC clerk<sup>2</sup> prints a parts report each day, which identifies the parts used by the technicians and whether any of the parts need to be restocked. The MIC clerk also retrieves unused parts from the technicians and assists the truck stock specialist in performing parts inventories on the trucks. The Employer also has four parts pros at the central facility. The parts pros print off a list of all parts needed by the technicians on an emergency basis and then locate those parts. Once a parts pro receives an order from a technician, the parts pro first determines if the part can be obtained locally. In order to do this the parts pro calls local vendors and has the part delivered. If the part cannot be obtained locally, then the parts pro orders the part from the Employer's parts distribution center and has it shipped. Once the part arrives, the parts pro either delivers it directly to the technician or has it shuttled to that technician's branch facility. The parts pro communicates all this information regarding the part to the requesting technician through the technician's HHT. The parts pro also notifies the technician if a part is going to be shipped directly to a customer's home. If a necessary part is not going to arrive at a customer's home within the designated time, the parts pro calls the customer and reschedules the call. The parts pro then notifies routing that this has been done. In addition to the above employees, the Employer also has one parts audit clerk. This employee works at the central facility and handles all the daily transaction reports for parts. The parts audit clerk also verifies that parts were received and handles all price changes for parts.

The Employer's shipping and receiving employees also work at the central facility. These employees are responsible for all merchandise received by the Employer and for all the merchandise that the Employer ships out to the branch facilities. The shipping and receiving employees also are responsible for the unloading and loading of merchandise for the sales floor. Shipping and receiving employees also check off parts ordered by the technicians and then place those parts in the technicians' totes. If a technician does not receive a part he is supposed to have, the technician goes to the shipping and receiving employees to locate the part. If shipping and receiving cannot locate the part, the parts pro is notified.

The Employer also has sales employees at the central facility. The sales employees service customers who bring in items for repair or who want to purchase parts. The sales employees take merchandise from the customers, tag the items, create a service order for the technician, and ring up the sales on the register. The sales employees also reimburse technicians for small items such as gas that a technician might have had to purchase out of his own pocket. The sales employees ring these transactions up directly on the cash register.

Finally, at the central facility the Employer also has customer relations employees and audit clerical employees. The customer relations employees handle customer complaints regarding maintenance and repair services. The types of problems handled by customer relations employees include technicians reporting to a call late, pricing problems, warranty problems, and problems with billing. Frequently the customer relations employees have to communicate with the technicians regarding these complaints. These communications are handled through the technicians' HHTs. Customer relations employees also identify errors on calls made the previous

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<sup>2</sup> The Employer currently has only one employee in the position of MIC clerk in the Indianapolis Product Service District.

day by the technicians. After customer relations identify the errors, the audit clerical employees correct the errors. The audit clerical employees also receive the technicians' cash envelopes and check those for any errors. If an error is identified, the audit clerical contacts the technician through his or her HHT and attempts to resolve the error. Audit clericals also handle technicians' expense statements and reimburse the technicians for certain business expenses.

Unlike at the central facility, support employees at the branch facilities are not specialized. Support employees at branch facilities simply carry the titles of support employee and are expected to perform a variety of functions. They receive parts and place those parts in the technicians' totes. They wait on customers and receive merchandise that those customers bring in for repairs. They also process the technicians' cash envelopes.

All technicians and support employees in the district are hired either directly or indirectly by the Employer's Human Relations Department. The Human Resources Manager recruits potential employees, interviews those prospects, and refers successful candidates for second interviews. In addition, all employees receive the same orientation training, and all employees receive the same employee handbook. Technicians are not required to have any special certifications or training as a requisite for hire. Any specialized training required by a technician after he or she is hired is provided by the Employer. All performance evaluations in the district for both technicians and support employees are reviewed by the district service manager. The district service manager also investigates any performance problem and determines the appropriate level of discipline for both technicians and support employees. The district service manager makes the final decision on any discipline, including discharge, involving either a technician or support employees.

Technicians and support employees receive the same level of benefits and they are all paid on an hourly basis. The range of pay for technicians in the district is \$9.69 an hour to \$22.21 an hour. The range of pay for support employees is \$7.00 an hour to \$17.63 an hour. Both technicians and support employees receive pay increases in the same fashion. The pay increase is based on the employee's score on his or her performance evaluation. Based upon that score, the employee receives a percentage increase. The amount of the percentage increase corresponding to each score is determined on a corporate level by the Employer. When technicians are injured and required to perform light duty, they may be assigned to perform support work until they are able to perform their normal duties. In addition, at least four current technicians were formerly support employees.

## II. DISCUSSION

Under Section 9(b) of the Act, the Board has broad discretion to determine "the unit appropriate for the purposes of collective bargaining" in each case "in order to assure to employees the fullest freedom in exercising the rights guaranteed by the Act," NLRB v. Action Automotive, Inc., 469 U.S. 490, 494-97 (1985). The Board's discretion extends to selecting an appropriate unit from the range of units which may be appropriate in any given factual setting; it need not choose the most appropriate unit, American Hospital Association v. NLRB, 499 U.S. 606, 610 (1991); P.J. Dick Contracting, Inc., 290 NLRB 150, 151 (1988). The Union asserts that a unit consisting of only the lead service technicians, site service technicians, shop service

technicians, technicians helpers, and truck stock specialist is an appropriate unit. The Employer contends that any appropriate unit containing those classifications must also contain the support employees described above.

In determining what constitutes an appropriate bargaining unit, the key question is whether the employees share a sufficient community of interest, Alois Box. Co., Inc., 326 NLRB 1177 (1998); Washington Palm, Inc., 314 NLRB 1122, 1127 (1994). In determining whether employees share a sufficient community of interest to constitute an appropriate unit, the Board weighs a variety of factors, including differences wages or method of compensation; different hours of work; different employment benefits; separate supervision; the degree of similar or dissimilar qualifications, training and skills; differences in job functions; amount of working time spent away from the facility; integration of work functions; the degree of interchange between employee classifications; and the history of bargaining, NLRB v. Action Automotive, Inc., 469 U.S. 490 , 494-97 (1985); Kalamazoo Paper Box Corp., 136 NLRB 134, 137 (1962).

Based upon the above, and the record in this case as a whole, the Employer's support employees in the Indianapolis Product Service District, including the specialized support employees at the central facility, share a sufficient community of interest with the technicians to warrant their inclusion within the same unit. All of the employees, both support and technicians, are paid on an hourly basis. The ranges of pay for support employees and technicians are also similar with support employees ranging from \$7.00 an hour to \$17.63 and technicians ranging from \$9.69 an hour to \$22.21. The method used by the Employer to determine wage increases is also the same for both support employees and technicians. The employees are assigned a number ranking on their performance appraisal and that number corresponds to a set percentage increase, which is predetermined by the Employer. The benefits for all of the employees, both support and technicians, are also identical. Neither technicians nor support employees are required to have any special training or experience before they are hired by the Employer.<sup>3</sup> Both support employees and technicians are subject to the same hiring procedures and receive the same orientation after hiring. Technicians and support employees also receive the same employee handbook.

Technicians and support employees also have some common supervision. At all of the branch facilities except Castleton, direct supervision is the same for both support employees and technicians. At the central facility and the Castleton branch, support employees and technicians have different direct supervisors. All employees have the same indirect supervisor in the person of the district service manager.

While site technicians spend the majority of their time in the field, the same is not true of shop technicians, a group the Union stipulated should be included in the unit. The Employer's 30 shop technicians spend the majority of their time at their respective facilities, as do the support employees. There is also some interchange between support employees and technicians. At least four support employees have transferred to technician positions. In addition, technicians who are injured or on light duty and are unable to perform their normal duties may be

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<sup>3</sup> Technicians do receive some training after they are hired by the Employer, but this training is provided by the Employer and is also available to support employees.

temporarily assigned to perform support work while they recover. Such technicians have worked in the parts area, customer relations, routing and audit. Finally, the technician helper, a position that the Union stipulated should be included in the unit, is currently on a leave of absence and his duties are being performed by employees in shipping and receiving.

In addition to this interchange, there is also interaction between support employees and technicians. Such interaction has been deemed a factor, which warrants that any appropriate unit must include both groups, Jumbo Produce, Inc., 294 NLRB 998 (1989). In the branch facilities this interaction occurs between support employees and technicians because the support employees perform a variety of tasks. The support employees unload parts and merchandise for the technicians. Support employees place parts which technicians request in the technicians' tote. When customers bring merchandise to the facility to be repaired, the support employees not only carry the merchandise back to the technicians but they also relay information from the customer to the technicians regarding the problem with the merchandise. Support employees at the branch facilities also take technicians' cash envelopes and handle forwarding that to the central facility.

There is also interaction between technicians and the specialized support employees at the central facility. Both routing specialists and routing clericals interact with the technicians on a daily basis. This interaction primarily occurs through the technicians' HHTs, rather than verbal communication. The main function of the routing clerical is to relay messages from the technicians to the routing specialists. Routing clericals spend approximately 85% of their day relaying such messages. Routing specialists are also frequently in contact with technicians. Information is relayed back and forth regarding how long a particular job is going to take, whether a customer is home, and whether a technician is going to be able finish all of his or her scheduled calls. This is done so that the routing specialist can shift jobs between technicians so as to ensure maximum efficiency for all the technicians.

Technicians also interact with the various parts employees, including the parts pros, the MIC clerk and the parts audit clerk. Employees in all of these positions work with the technicians to secure needed parts. In addition, all of these employees have interaction with the truck stock specialist, who both parties have stipulated should be included in the unit. The MIC clerk assists the truck stock specialist in preparing an inventory of truck parts and in stocking the parts on the technicians' trucks. The parts pros assist the truck stock specialist in locating parts to be stocked on the trucks. In addition, the truck stock specialist works in the same area of the central facility as the MIC clerks, the parts pros, and the parts audit specialist.

Technicians also interact regularly with customer relations employees and audit clericals. Customer relations employees regularly communicate with technicians regarding complaints and problems reported by customers. The customer relations employees relay these complaints and problems to the technicians and then attempt to resolve them. Technicians turn in the cash and receipts they collect from customers to the audit clericals. The audit clericals then work with the technicians regarding any discrepancies in the money envelopes turned in by the technicians. Finally, technicians interact with the sales employees. These employees carry merchandise to the technicians and inform them of any information provided by the customer. They also ring up reimbursements for small expenses which the technicians pay out of their pocket.



In addition to the above-described factors, there is also functional integration between the support employees and the technicians. The jobs of the support employees are designed primarily to support the job activities of the technicians. It is the technicians who actually generate revenue for the Employer by repairing and servicing merchandise, and the support employees provide assistance to the technicians in a variety of ways. The record demonstrates that technicians are regularly in contact with support employees regarding their service calls and any problems they might be experiencing. Routing employees and customer relations employees maintain daily contact with the technicians to ensure that calls are covered in an efficient manner and that customer complaints are properly resolved. The parts employees assist technicians in obtaining and stocking parts necessary for the service calls. This includes both parts that the technicians regularly carry in their truck and specialty parts. Auditing clerks check the transactions between the technicians and customers to make sure there are no problems or discrepancies. Shipping and receiving employees unload merchandise for the technicians and shuttle needed parts to technicians in the branch facilities. Finally, sales associates work with the technicians in relaying customers concerns regarding merchandise that is brought into a facility. All of these support functions ensure that the technicians' jobs are performed as smoothly as possible. For all of the above reasons, it is concluded that the support employees share a sufficient community of interest with members of the petitioned unit, to require their inclusion within that unit.

### III. DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned, among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the United Steelworkers of America, AFL-CIO, CLC.

#### IV. NOTICES OF ELECTION

Please be advised that the Board has adopted a rule requiring that election notices be posted by the Employer at least three working days prior to an election. If the Employer has not received the notice of election at least five working days prior to the election date, please contact the Board Agent assigned to the case or the election clerk.

A party shall be estopped from objecting to the non-posting of notices if it is responsible for the non-posting. An Employer shall be deemed to have received copies of the election notices unless it notifies the Regional office at least five working days prior to 12:01 a.m. of the day of the election that it has not received the notices, Club Demonstration Services, 317 NLRB 349 (1995). Failure of the Employer to comply with these posting rules shall be grounds for setting aside the election whenever proper objections are filed.

#### V. LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them, Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is directed that 2 copies of an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the undersigned within 7 days from the date of this Decision, North Macon Health Care Facility, 315 NLRB 359 (1994). The undersigned shall make this list available to all parties to the election. In order to be timely filed, such list must be received in Region 25's Office, Room 238, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204-1577, on or before **May 30, 2001**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

#### VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to

the Executive Secretary, 1099-14th Street. N.W., Washington, DC 20570. This request must be received by the Board in Washington by June 6, 2001.

DATED AT Indianapolis, Indiana, this 23rd day of May, 2001.

Roger A. LaForge  
Acting Regional Director  
National Labor Relations Board  
Region 25  
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